

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**SOVERAIN SOFTWARE LLC**

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**Plaintiff**

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**vs.**

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**CDW CORPORATION, NEWEGG INC.,  
REDCATS USA, INC., SYSTEMAX, INC.,  
ZAPPOS.COM, INC., TIGER DIRECT,  
INC., THE SPORTSMAN'S GUIDE, INC.,  
and REDCATS USA LP**

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**Defendant**

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**CASE NO. 6:07 CV 511  
PATENT CASE**

**ORDER**

As stated at the pretrial hearing on January 21, 2010, the Court **DENIES** Newegg's Daubert Motion and Supporting Brief to Exclude the Opinions of James Nawrocki (Docket No. 252), **DENIES** Soverain's Daubert Motion to Exclude Expert Testimony of Edward R. Tittel (Docket No. 253), **DENIES** Soverain's Daubert Motion to Exclude Certain Opinions of W. Christopher Bakewell (Docket No. 254), **DENIES** as moot Soverain's Motion to Preclude Expert Trial Testimony by Alexander Trevor, Preclude Edward Tittel from Offering Testimony Based on the Trevor Report, and Exclude the Trevor Report from Evidence (Docket No. 242), **DENIES** Soverain's Motion in Limine to Preclude the Testimony of Alexander Trevor at Trial (Docket No. 287), **DENIES** Newegg's Motion for Summary Judgment that the '639 Patent is Not Entitled to Claim the Benefit of the Filing Date of its Parent Application, and that the Asserted Claims of the '639 Patent are Therefore Invalid (Docket No. 221), **DENIES** Newegg's Motion for Partial Summary Judgment of Invalidity of the "Shopping Cart Claims" in the '314 Patent and the '492 Patent (Docket No. 247),

**CARRIES** Soverain's Motion for Partial Summary Judgment of Infringement of the '492 Patent (Docket No. 230), and **CARRIES** Newegg's Motion for Summary Judgment of Non-Infringement of the '639 Patent, '314 Patent, and '492 Patent (Docket No. 248). The Court further **DENIES** Soverain's Motion to Strike Portions of Newegg's Damages Expert Report Relying on the "Design-Around" Memo, Preclude Testimony of Those Portions, and Preclude Newegg from Offering the Memo as Evidence (Docket No. 243).

The Court **GRANTS** in part Soverain's Motion in Limine 20 as to Trevor's uncorroborated testimony, **DENIES** Soverain's Motions in Limine 23 and 28 (Docket No. 305), **CARRIES** Soverain's remaining Motions in Limine (Docket No. 305), and **CARRIES** Newegg's Motions in Limine (Docket No. 306). The Court **ORDERS** the parties to meet and confer on all motions in limine not ruled on and notify the Court of any issues that need to be resolved by January 28, 2010. If the parties cannot resolve all the issues, the Court will hear them before jury selection on February 1, 2010.

The Court **GRANTS** the parties' Joint Motion Requesting Submission of a Juror Questionnaire (Docket No. 312). The first page of instructions will be read aloud to the potential jurors and the second page of questions will be handed to and filled out by the potential jurors prior to *voir dire*. The Court **ORDERS** the parties to meet and confer on the Court's Charge and submit a proposed Charge to the Court by February 3, 2010. The parties shall file the proposed Charge and email it in WordPerfect to Natalie\_Alfaro@txed.uscourts.gov.

Finally, the Court will allow the parties 30 minutes for voir dire, 30 minutes for opening statements, 12 hours for direct and cross examinations, and 60 minutes for closing arguments.

**So ORDERED and SIGNED this 25th day of January, 2010.**

A handwritten signature in black ink, appearing to read "LEONARD DAVIS".

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**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**